

REMARKS

Claims 1-25 are pending in the present application. In the Office Action, claims 1-8, 10-16, and 18-24 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Asaoka, et al (U.S. Patent No. 5,878,340). Claims 9 and 25 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Asaoka in view of Lambert (U.S. Patent No. 5,642,380). Claim 17 was rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Asaoka in view of Newton's Telecom Dictionary. The Examiner's rejections are respectfully traversed.

Independent claims 1, 8, and 18 set forth, among other things, determining if an authorization signal has been received at the user terminal within a specified period of time. The authorization signal authorizes the user terminal to communicate with the base station. Claims 1, 8, and 18 also set forth disabling the transmitter of the user terminal providing that the authorization signal has not been received within the specified period of time. For example, if a signal detector 240 has not detected an AT signal from a base station 120 and a timer 245 has timed-out at block 325, the watchdog timer 245 sends a shutdown signal to the radio controller 235 at block 335 and the radio controller 235 sends a signal to the radio transceiver 205 to disable the transmitter 220, thereby preventing the user terminal 110 from transmitting data messages to the base station 120. See Patent Application, page 16, ll. 13-24 and Figures 2-3.

In contrast, Asaoka describes releasing a communication channel after a predetermined time period. For example, a CPU 331 in a vehicle radio telephone may begin counting time if a PIN transmission request signal has not been received from a base station. If the count value reaches a predetermined value of N, then a communication termination process is performed. The communication termination process includes releasing a communication channel (radio channel W). See Asaoka, col. 9, l. 21 – col. 10, l. 22 and Figure 4. However, Asaoka does not

describe or suggest disabling a transmitter in the vehicle radio telephone. For at least this reason, Applicants respectfully submit that the present invention is not anticipated by Asaoka and request that the Examiner's rejections of claims 1-8, 10-16, and 18-24 under 35 U.S.C. 102(b) be withdrawn.

Applicants also submit that the present invention is not obvious over Asaoka in view of either Lambert or Newton's Telecom Dictionary. To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). As discussed above, Asaoka fails to teach or suggest disabling a transmitter of a user terminal. The Examiner relies upon Lambert to describe a modem and Newton's Telecom Dictionary to describe a Global System for Mobile communications (GSM) protocol. However, neither of these references remedy the fundamental deficiencies of the primary reference.

The cited references also fail to provide any suggestion or motivation for modifying the prior art to arrive at Applicants' claimed invention. To the contrary, Asaoka teaches away from disabling the transmitter in the vehicle radio telephone. For example, in the third embodiment of the technique described in Asaoka, the communication termination process may not be performed after the count value reaches the predetermined value of N. Instead, a user of the vehicle radio telephone may be permitted to attempt one or more manual push operations for a flash operation. The manual push operations attempt to transmit a PIN over the communication channel and therefore require that the transmitter in the vehicle radio telephone be operative. See Asaoka, col. 11, l. 5 – col. 6, l. 9. It is by now well established that teaching away by the prior art constitutes *prima facie* evidence that the claimed invention is not obvious. *See, inter alia, In re*

Fine, 5 U.S.P.Q.2d (BNA) 1596, 1599 (Fed. Cir. 1988); *In re Nielson*, 2 U.S.P.Q.2d (BNA) 1525, 1528 (Fed. Cir. 1987); *In re Hedges*, 228 U.S.P.Q. (BNA) 685, 687 (Fed. Cir. 1986).

For at least the aforementioned reasons, Applicants respectfully submit that the present invention is not obvious over the cited references, either alone or in combination. Applicants request that the Examiner's rejections of claims 9, 17, and 25 under 35 U.S.C. 103(a) be withdrawn.

For the aforementioned reasons, it is respectfully submitted that all claims pending in the present application are in condition for allowance. The Examiner is invited to contact the undersigned at (713) 934-4052 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

Date: 12/13/04



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